PROVINCE OF NEW BRUNSWICK

SHORT FORM CONTRACT

CROWN CONSTRUCTION CONTRACTS ACT

SHORT FORM CONTRACT
77-1120E(1-92)

New Nouveau Brunswick

PROVINCE OF NEW BRUNSWICK

THIS CONTRACT MADE IN DUPLICATE THIS ..... DAY OF..... 20 ..... BETWEEN:
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK REPRESENTED HEREIN BY THE MINISTER OF TRANSPORTATION
HEREIN AFTER REFERRED TO AS THE "OWNER "OF THE FIRST PART
AND.....HER
EINAFTER REFERRED TO AS THE "CONTRACTOR" OF THE SECOND PART.

WITNESSETH THAT IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, AND SUBJECT TO THE TERMS AND CONDITIONS HEREINAFTER SET OUT, THE PARTIES COVENANT AND AGREE AS FOLLOWS:

1. THE OWNER SHALL

(a) PAY TO THE CONTRACTOR IN CONSIDERATION OF THE WORK TO BE PERFORMED BY THE CONTRACTOR THE SUM OF

WHICH SUM SHALL BE SUBJECT TO

(i) A FIVE PERCENT HOLDBACK WHERE A PERFORMANCE BOND, A LABOUR AND MATERIALS PAYMENT BOND OR A SECURITY DEPOSIT IS APPLICABLE TO THE CONTRACT.

(ii) A FIFTEEN PERCENT HOLDBACK WHERE NO SUCH BONDS OR SECURITY DEPOSIT IS APPLICABLE, AND THE CONTRACT VALUE IS GREATER THAN FIVE THOUSAND DOLLARS OR

(iii) A FIFTEEN PERCENT HOLDBACK WHERE NO SUCH BONDS OR SECURITY DEPOSIT IS APPLICABLE, THE CONTRACT VALUE IS FIVE THOUSAND DOLLARS OR LESS AND THE OWNER HAS IN SECTION 6 ELECTED TO RETAIN A HOLDBACK.

(b) PAY THE HOLDBACK MONIES TO THE CONTRACTOR LESS ANY PORTION THEREOF OR PROPERLY RETAIN BY THE OWNER UPON THE EXPIRATION OF SIXTY DAYS FROM COMPLETION OF THE WORK, AND

(c) MAKE THE PAYMENT SET OUT IN PARAGRAPH (a) LESS HOLDBACK UPON COMPLETION OF THE WORK

2. THE CONTRACTOR SHALL

(a) PERFORM THE WORK DESCRIBED IN SECTION 5(2) IN ACCORDANCE WITH THE TERMS OF THIS CONTRACT, THE TENDER DOCUMENTS AND THE SPECIFICATIONS ATTACHED HERETO, IF ANY,

(b) FURNISH ALL PLANT, LABOUR, EQUIPMENT, TOOLS AND MATERIALS, OTHER THAN THOSE SUPPLIED BY THE OWNER IN ACCORDANCE WITH SECTION 4, NECESSARY TO COMPLETE THE WORK, AND

(c) COMPLETE THE WORK TO THE SATISFACTION OF THE ENGINEER ARCHITECT ON OR BEFORE THE ..... DAY OF..... 20 .....

3. THIS CONTRACT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS: (a) TIME IS OF THE ESSENCE, (b) AS FAR AS PRACTICABLE, NEW BRUNSWICK LABOUR AND MATERIAL SHALL BE UTILIZED BY THE CONTRACTOR, (c) THE CONTRACTOR SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE OWNER, ASSIGN OR SUBLET ALL OR ANY PORTION OF THIS CONTRACT, (d) NO CLAIM FOR EXTRA WORK SHALL BE RECOGNIZED BY THE OWNER UNLESS APPROVED IN WRITING BY THE ENGINEER-ARCHITECT, (e) THE CONTRACTOR SHALL ALLOW OFFICERS OF THE OWNER FREE ACCESS TO THE WORK, AND (f) THE ENGINEER-ARCHITECT MAY IN WRITING DESIGNATE PERSONS TO ACT ON HIS BEHALF.

4. THE OWNER WILL SUPPLY THE FOLLOWING MATERIALS FREE ON BOARD THE LOCATION INDICATED (IF NONE INDICATE N A)

N/A OR AS PER THE DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND PARTICULAR SPECIFICATIONS

5. (1) THIS CONTRACT IS A LUMP SUM UNIT PRICE
(2) THE CONTRACTOR SHALL COMPLETE THE FOLLOWING DESCRIBED WORK IN ACCORDANCE WITH THE TERMS OF THIS CONTRACT, AND, IF A UNIT PRICE CONTRACT, CARRY OUT THAT WORK AT THE PRICES SET OUT HEREIN.

THE ATTACHED TENDER SUBMISSION AND MARKED "F" FORMS PART OF THIS CONTRACT

THE FOLLOWING ATTACHED ARTICLES OF AGREEMENT FORM PART OF THIS CONTRACT

1. GENERAL CONDITIONS FOR BUILDING MOVES AND MARKED "B"
2. ADDENDUM NO. ..... AND MARKED "C"
3. INSURANCE SCHEDULE AND MARKED "E"
4. TENDER SUBMISSION AND MARKED "F"
5. PARTICULAR SPECIFICATIONS AND MARKED "G"
6. PLANS AND SPECIFICATIONS AND MARKED "G"
7. AFFIDAVIT AND MARKED "I"

ALL WORK SHALL BE CARRIED OUT ACCORDING TO THE DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE DISTRICT TRANSPORTATION ENGINEER, ...OR HIS/HER REPRESENTATIVE.

ALL WORK SHALL BE CARRIED OUT UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE DISTRICT TRANSPORTATION ENGINEER, ... N.B. OR HIS/HER REPRESENTATIVE.

ALL WORK SHALL BE CARRIED OUT UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE DEPARTMENT OF TRANSPORTATION DIRECTOR OF ..... FREDERICTON, N.B., OR HIS/HER REPRESENTATIVE.

6. IF THIS SECTION IS INITIALLED BY THE OWNER, IT SIGNIFIES THAT THE OWNER HAS ELECTED TO RETAIN A HOLDBACK AND IF NOT INITIALLED, THAT HE HAS ELECTED NOT TO RETAIN A HOLDBACK . .....(INITIALS)

7. THE CONTRACTOR CERTIFIES THAT HE NOW HAS AND WILL KEEP IN FORCE DURING THE TERM OF THE CONTRACT LIABILITY INSURANCE PER THE ATTACHED CONFIRMATION OF COVERAGE.

8. THE CONTRACTOR HEREBY AGREES TO INDEMNIFY AND SAVE HARMLESS THE OWNER FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS OR PROCEEDINGS WHICH MAY NOW OR HEREAFTER BE BROUGHT, MAINTAINED OR INSTITUTED AGAINST THE OWNER BY ANY PERSON ARISING OUT OF IN RELATING TO OCCASIONED BY OR IN ANY WAY ATTRIBUTABLE TO THE CARRYING OUT OF THE WORK HEREUNDER BY THE CONTRACTOR, HIS SUBCONTRACTORS, SUPPLIERS, SERVANTS OR AGENTS OR IN ANY WAY RELATING TO THE INFRINGEMENT OF ANY PATENT OR COPYRIGHT BY ANY OF THEM IN RELATION TO THE WORK.

IN WITNESS WHEREOF THE RESPECTIVE PARTIES HAVE EXECUTED THIS CONTRACT ON THE DAY AND YEAR FIRST ABOVE WRITTEN

OWNER
SIGNATURE — MINISTER OF TRANSPORTATION

..... WITNESS

CONTRACTOR
SIGNATURE

..... WITNESS

CONTRACT NO — PROJECT NO — FILE
PROJECT NAME
ISSUED BY THE DEPARTMENT OF TRANSPORTATION — ISSUED TO
AWARD OF CONTRACT RECOMMENDED

DEPOSIT: C. CHEQUE # /NO DEPOSIT : DEPOSIT: BONDS

PROVINCE OF NEW BRUNSWICK

STANDARD CONSTRUCTION CONTRACT

CROWN CONSTRUCTION CONTRACTS ACT

PROJECT:

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ARTICLES OF AGREEMENT

THESE ARTICLES OF AGREEMENT made in duplicate this day of 20 :

BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK REPRESENTED HEREIN BY THE MINISTER OF TRANSPORTATION

(referred to in the documents forming the contract as the "Owner")

AND:_____, A DULY INCORPORATED COMPANY UNDER THE LAWS OF THE PROVINCE OF NEW BRUNSWICK

(referred to in the documents forming the contract as the "Contractor")

WITNESS that the Owner and the Contractor covenant and agree as follows:

ARTICLE I

The Contractor shall in a careful and workmanlike manner execute the following work within the time herein limited:

which work is more particularly described in the documents that are attached hereto, entitled "Plans and Specifications" marked "G" (referred to in the documents forming the contract as the "Plans and Specifications") at the place and in the manner therein set out.

ARTICLE II

1 The Owner shall pay to the Contractor as consideration for the execution of the portion of the work to which the fixed price arrangement is applicable the sum of $ (subject to any additions or deductions provided for in these Articles, the General Conditions, the Terms of Payment or the Labour Conditions, except any addition or deduction which is expressly stated to be applicable only to a unit price arrangement), at the times and in the manner set out or referred to in the document that is attached hereto entitled "Terms of Payment" and marked "A" (referred to in the documents forming the contract as the "Terms of Payment").

2(1) The Owner shall pay to the Contractor as consideration for the execution of the portion of the work to which the unit price arrangement is applicable a sum equal to the number of units of measurement of each class of labour, plant or material actually performed, used or supplied by the Contractor in the execution of the work as measured by the Engineer-Architect and set out in the Engineer-Architect's Final Certificate multiplied by the price of each such unit of measurement as set out in the Unit Price Table as added to or amended in accordance with subsections (2), (3) and (4) (such sum being subject to any additions or deductions provided for in the General Conditions, Terms of Payment, Labour Conditions, except any addition or deduction which is expressly stated to be applicable only to a fixed price arrangement) at the times and in the manner set out or referred to in the document that is attached hereto entitled "Terms of Payment" and marked "A" (referred to in the documents forming the contract as the "Terms of Payment").

2(2) The Engineer-Architect and the Contractor may by agreement in writing add to the Unit Price Table, as set out in the contract documents, classes of labour, plant or material together with units of measurement, prices per unit and estimated quantities therefor where any labour, plant or material which will be included in the Engineer-Architect's Final Certificate is not included in any class of labour, plant or material set out in the Unit Price Table.

2(3) The Engineer-Architect and the Contractor may by agreement in writing amend the price per unit set out in the Unit Price Table for any class of labour, plant or material included therein where an estimated quantity is set out therein for that class of labour, plant or material, if the Engineer-Architect's Final Certificate shows or will show that the total quantity of that class of labour, plant or material performed, used or supplied by the Contractor in executing the work is less than seventy-five percent of that estimated quantity, and the price per unit agreed under this subsection shall apply to the number of units supplied.

2(4) The Engineer-Architect and the Contractor may by agreement in writing amend the price per unit set out in the Unit Price Table for any class of labour, plant or material included therein where an estimated quantity is set out therein for that class of labour, plant or material, by establishing a price per unit for units of that class of labour, plant or material performed, used or supplied by the Contractor in executing the work which are in excess of one hundred and twenty-five percent of that estimated quantity, and the price per unit agreed to under this subsection shall be applicable only to those units which are in excess of one hundred and twenty-five percent of the estimated quantity.

2(5) For the information and guidance of the Contractor and the persons administering the contract on behalf of the Owner, but not so as to constitute a warranty, representation or undertaking of any nature, either by the Owner to the Contractor or by the Contractor to the Owner, it is estimated that the total amount payable by the Owner to the Contractor for the portion of the work to which the unit price arrangement is applicable

is._____.

3 Section 1 is not applicable where the unit price arrangement applies to the whole of the work.

4 Section 2 is not applicable where the fixed price arrangement applies to the whole of the work.

ARTICLE III

1 Subject to sections 2 and 3 of this Article, bound documents (A) and (B) in addition to attached documents (C), (D), (E), (F), (G) and (H) hereto entitled

(A) "Terms of Payment" and marked "A";

(B) "General Conditions" and marked "B";

N/A (C) "Supplementary General Conditions" and marked "C" (if none, insert not applicable);

N/A (D) "Labour Conditions" and marked "D";

(E) "Insurance Schedule" and marked "E";

(F) "Tender Submission" and marked "F";

(G) "Plans and Specifications" and marked "G";

N/A (H) "Post-tender Documents" and marked "H"; and

(I) "Affidavit" and marked "I"

all form part of the contract between the Owner and the Contractor.

2 Any provisions of these Articles, the Terms of Payment and the General Conditions which are expressly stated to be applicable only to a unit price arrangement are not applicable to the whole or to the portion of the work to which the fixed price arrangement is applicable.

3 Any provisions of these Articles, the Terms of Payment and the General Conditions which are expressly stated to be applicable only to a fixed price arrangement are not applicable to the whole or to the portion of the work to which the unit price arrangement is applicable.

ARTICLE IV

1 With respect to the execution of the work by the Contractor,

(a) the security deposit having a current market value of $ that has been deposited with the Owner by the Contractor for the due fulfilment of the contract shall be dealt with in accordance with the provisions concerning security deposit in the General Conditions, or

(b) a surety company has furnished or has undertaken to furnish a Performance Bond, (insert details - name of company, amount, date, etc.)

and a Labour and Material Payment Bond, (insert details - name of company, amount, date, etc.)

which bond or bonds shall operate according to their tenor.

2 Where bonds are provided under paragraph 1(b), the Contractor shall post on the site of the work a notice that a Labour and Material Payment Bond is in force together with the name and address of the surety company thereunder, a definition of those persons protected thereunder and outline of the procedure for submitting a claim thereunder.

ARTICLE V

For all purposes of or incidental to the contract, the Contractor's address shall be deemed to be:

_____

_____

ARTICLE VI

The Unit Price Table is the Unit Price Table contained in the Tender.

SIGNED, SEALED AND DELIVERED

In the Presence of:

Witness	"The Owner"
_____	MINISTER OF TRANSPORTATION
_____	_____
_____	_____
Witness	"The Contractor"
_____	_____
_____	_____
_____	_____

TERMS OF PAYMENT "A"

A

TOTAL PAYMENT

1 Subject to the provisions of sections 16 and 19 of the General Conditions, the Owner shall pay to the Contractor at the times and in the manner hereinafter set out the amount by which

(a) the aggregate of the amounts described in section 2 exceeds

(b) the aggregate of the amounts described in section 3

and the Contractor shall accept the payment as full consideration for everything furnished and done by him in respect of the work.

DETAIL OF PARAGRAPH 1(a)

2 The amounts referred to in paragraph 1(a) are:

(a) the amount payable to the Contractor pursuant to Article II of the Articles of Agreement;

(b) the amount, if any, payable to the Contractor pursuant to section 12 of the General Conditions relating to soil conditions, neglect or delay;

(c) the amount, if any, payable to the Contractor on account of a suspension of work pursuant to section 18 of the General Conditions;

(d) the amount, if any, payable to the Contractor pursuant to section 36 of the General Conditions relating to work not required to be done under the contract but done by the Contractor under a disputed decision or direction of the Engineer-Architect; and

(e) the amount, if any, payable to the Contractor by reason of an order or change pursuant to section 37 of the General Conditions.

DETAIL OF PARAGRAPH 1(b)

3 The amounts referred to in paragraph 1(b) are:

(a) the amount, if any, payable to the Owner pursuant to section 12 of the General Conditions relating to soil conditions;

(b) the amount, if any, which the Contractor is liable to pay to the Owner pursuant to section 14 of the General Conditions relating to damage to the Owner's material, plant and real property;

(c) in the event of a delay in completing the work, the amount payable to the Owner pursuant to section 15 of the General Conditions;

(d) the amount, if any, paid by the Owner in satisfaction of obligations of the Contractor or a subcontractor pursuant to section 20 of the General Conditions or pursuant to the Labour Conditions;

(e) the amount, if any, payable by the Contractor to the Owner pursuant to section 35 of the General Conditions relating to matters done by the Owner which the Contractor refused or failed to do; and

(f) the amount, if any, by which the cost of the work to the Contractor was decreased by reason of dispensations or changes pursuant to section 37 of the General Conditions.

PROGRESS PAYMENTS

4(1) For the purposes of this section, "Payment Period" means an interval of thirty days or such other interval as the Contractor and Engineer-Architect agree upon.

4(2) The Contractor and Engineer-Architect shall, either before or immediately after the signing of the Articles of Agreement, agree on a schedule of provisional unit prices to be used in the preparation of progress claims.

4(3) On or after the end of each Payment Period, a progress claim in writing showing the amount of each class of work performed and materials furnished during such Payment Period, with the value thereof computed in accordance with the schedule of provisional unit prices where applicable or the table of unit prices where applicable, shall be prepared by the Contractor and submitted in triplicate to the Engineer-Architect for approval.

4(4) The Engineer-Architect shall within ten days endorse his approval or amended approval on the copies of the progress claim, after making such alterations therein as he may deem proper, and shall forward one copy to the Owner, return one copy to the Contractor, and retain one copy in his possession and the progress claim so approved shall be the basis of the payment by the Owner under subsection (6).

4(5) In respect of each progress claim, the Contractor shall deliver to the Owner

(a) a Statutory Declaration deposing, or

(b) if required by the Owner, documentary proof verifying,

the fact that all his lawful obligations to subcontractors, workmen and suppliers of material in respect of the work as at a date not greater than forty-five days prior to the date of the progress claim have been fully discharged.

4(6) The Owner shall, within twenty days after receipt of the approved progress claim from the Engineer-Architect and receipt of the statutory declaration or proof of payment required under subsection (5), pay to the Contractor an amount equal

(a) when a Labour and Material Payment Bond was required of and furnished by him, to ninety-five percent of the amount of progress claim, or

(b) when a security deposit was required of and furnished by him, to eighty-five percent of the amount of the progress claim.

4(7) Upon the expiration of sixty days from the date of issuance of an Interim Certificate of Completion under subsection 39(1) of the General Conditions or thirty days after the Contractor has delivered to the Owner an invoice approved by the Engineer-Architect, showing the method by which the amount claimed therein was calculated, whichever is the later date, and if the Contractor has made and delivered to the Owner his Statutory Declaration deposing or proof of payment, if required by the Owner, verifying the fact that all his lawful obligations to subcontractors, workmen and suppliers of material in respect of the work are fully discharged and that all other lawful claims against him in respect of the work including Workers' Compensation assessments have been satisfied or provided for, the amount described in section 1 as estimated by the Engineer-Architect less the aggregate of

(a) all payments made pursuant to subsection (6),

(b) an amount equal to double the estimated cost to the Owner of completing the items and doing the things described in the Interim Certificate of Completion which, in the opinion of the Engineer-Architect, are brought about by defects and faults in the work,

(c) an amount equal to double the cost to the Owner of completing the items and doing the things described in the Interim Certificate of Completion other than items or things to which paragraph (b) applies,

(d) all payments made pursuant to section 9, and

(c) all amounts retained pursuant to a maintenance and guarantee provision, if any, contained in the contract shall become due and be payable by the Owner to the Contractor.

4(8) Upon the expiration of sixty days from the date of issuance of the Final Certificate of Completion under subsection 39(2) of the General Conditions or thirty days after the Contractor has delivered to the Owner an invoice approved by the Engineer-Architect, showing the method by which the amount claimed therein was calculated, whichever is the later date, and if the Contractor has made and delivered to the Owner his Statutory Declaration or proof of payment, if required by the Owner, verifying the fact that all his lawful obligations and lawful claims against him, arising out of the work, have been discharged and satisfied, the amounts described in section 1 less the aggregate of

(a) all payments made pursuant to subsection (6),

(b) all payments made pursuant to subsection (7),

(c) all payments made pursuant to section 9, and

(d) all amounts retained pursuant to a maintenance and guarantee provision, if any, contained in the contract

shall become due and be payable by the Owner to the Contractor.

4(9) Where the Contractor does not provide the Owner with a Statutory Declaration or proof of payment required by subsection (5), (7) or (8) within the time limited therein, the Owner may withhold payment of the monies which would otherwise have become due until such time as the Statutory Declaration or proof of payment is provided by the Contractor to the Owner and the Owner during this period of time shall not be required to pay interest as provided for in section 6.

CLAIM PAYMENT NOT ACCEPTANCE

5 Neither a Progress Claim nor a payment by the Owner pursuant thereto shall be construed as evidence that the work, material or any part thereof is complete, is satisfactory or is in accordance with the contract.

OWNER'S DELAY IN PAYMENT

6 Delay by the owner in making a payment when it becomes due and is payable shall, if the delay continues for more than fifteen days, entitle the Contractor to interest on the overdue payment and the Owner shall pay to the Contractor interest thereon from the said fifteenth day until paid at the rate being charged by the Canadian chartered banks in Fredericton on prime commercial accounts as of the date from which such interest was payable.

OWNER'S RIGHT OF SET - OFF

7(1) Without restricting any right of set-off given or implied by law, the Owner may set-off against any amount payable to the Contractor under the contract, any amount payable to the Owner by the Contractor under this contract or under any current contract and, without restricting the generality of the foregoing, the Owner may when making payment pursuant to section 4 deduct from the amount payable any amount which is then payable to the Owner or the Province of New Brunswick by the Contractor under the contract or which, by virtue of the right of set-off, may be retained by the Owner.

7(2) For the purposes of this section "current contract" means

(a) a contract between the Owner and the Contractor under which the Contractor has an undischarged obligation to perform or supply work, labour or materials, or

(b) a contract between the Owner and the Contractor in respect of which the Owner has since the date on which this contract was entered into exercised the right to take the work, the subject of that contract, out of the Contractor's hands.

PAYMENT WHEN CONTRACT TERMINATED

8 In the event that the contract is terminated pursuant to section 19 of the General Conditions, the Owner shall as soon as is practicable under the circumstances pay to the Contractor the amount, if any, payable to the Contractor pursuant to that section.

INTERIM RELEASE OF HOLDBACK

9(1) The Owner may at any time, but not more than twice during the term of the contract, on the written application of the Contractor and with the approval of the surety, pay to the Contractor all, or a portion of, the percentage amounts retained up to that time in respect of payments on Progress Claims under subsection 4(6).

9(2) Subject to the approval of the surety, the making of any such payment, and the amount thereof, are wholly in the discretion of the Owner.

B

DEFINITION OF TERMS

1(1) In the documents forming the contract, unless the context otherwise requires:

"Engineer-Architect" means the .....
.....
.....of.....
.....and includes a person authorized by him to perform on his behalf any function under the contract;

"herein," "hereby," "hereof," "hereunder" and similar expressions refer to the contract as a whole and not to any particular subdivision or part thereof;

"material" includes all materials, commodities, articles and things required to be furnished under the contract for incorporation in the work;

"Owner" means that Minister, agency or corporation set forth in the Articles of Agreement as the Owner;

"plant" includes all animals, tools, implements, machinery, vehicles, buildings, structures, equipment, articles and things required for the execution of the work;

"security deposit" means the security given by the Contractor to the Owner in accordance with the contract;

"subcontractor" means a person, firm or corporation having a contract with the Contractor

(a) for the execution of a part or parts of the work included in this contract, or

(b) for the furnishing of material called for in this contract and worked to a special design according to the Plans and Specifications

provided such contract is made pursuant to section 4;

"superintendent" means the employee of the Contractor who is designated by the Contractor as being in full charge of the field operations of the Contractor for the purposes of the contract;

"work" includes all labour, material and services required, as shown or described in the contract, supplied and installed or erected complete at the place of building.

1(2) The marginal notes, if any, in the contract documents form no part of the contract but shall be deemed to be inserted for the convenience of reference only.

REFERENCES

1(3) Unless the context otherwise requires, where in a contract document reference is made to a section, subsection or paragraph, the reference is deemed to be a reference

(a) in the case of section, to a section in the contract document,

(b) in the case of a subsection, to a subsection of the section, and

(c) in the case of a paragraph, to a paragraph in the section or subsection,

in which the reference appears.

INTERPRETING DOCUMENTS

1(4) In interpreting the contract in the event of discrepancies or conflicts between anything in the Plans and Specifications and the General Conditions, the General Conditions shall govern.

1(5) In interpreting the Plans and Specifications:

(a) in the event of discrepancies or conflicts between the Plans and Specifications, the Specifications shall govern;

(b) in the event of discrepancies or conflicts between the Plans, the Plans drawn with the largest scale shall govern; and

(c) in the event of discrepancies or conflicts between figured dimensions and scaled dimensions, the figured dimensions shall govern.

CONTRACT BINDING

2 The contract shall inure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

ASSIGNMENT

3 The contract may not be assigned without the written consent of the Owner and until sections 51 and 52 of the Financial Administration Act, chapter F-11 of the Revised Statutes of New Brunswick, 1973, have been complied with where applicable.

SUBCONTRACTING

4(1) Except for the subcontracting proposed by the Contractor in his accepted tender, neither the whole nor any part of the work may be subcontracted by the Contractor without the consent of the Engineer-Architect.

4(2) Every subcontract by the Contractor, whether as proposed in the approved tender or as approved by the Engineer-Architect under subsection (1), shall provide that the subcontractor shall comply with all terms and conditions of this contract which can reasonably be applied to his undertaking including, without limiting the generality of the foregoing, the provisions of section 52.

SCOPE OF WORK

5(1) The description of the work and material set out in the contract includes not only the particular kind of work and material mentioned but also all labour, plant and material necessary for the full execution, completion and delivery ready for use of the work and material.

5(2) The Contractor shall provide everything necessary for execution of the work except things in respect of which the contract expressly provides otherwise and except the site of work if the work when completed is to remain permanently affixed thereon.

NO IMPLIED OBLIGATION

6 No implied obligation of any kind by or on behalf of the Owner shall arise from anything in the contract, and the express covenants and agreements herein contained and made by the Owner are and shall be the only covenants and agreements upon which any right against the Owner are to be founded, and, without limiting the generality of the foregoing, the contract supersedes all communications, negotiations and agreements, either written or oral, relating to the work and made prior to the date of the contract.

TIME OF THE ESSENCE

7 Time is of the essence of the contract.

INDEMNITY BY CONTRACTOR

8(1) Except as provided in section 9, the Contractor shall indemnify and save harmless the Owner from and against all claims, demands, losses, costs, damage, actions, suits, or proceedings by whomsoever made, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to the activities of the Contractor in executing the work under the contract or to an infringement or an alleged infringement by the Contractor of a patent of invention.

8(2) For the purposes of subsection (1), "activities" includes an act improperly carried out, an omission to carry out an act and delay in carrying out an act.

INDEMNITY BY OWNER

9 The Owner shall indemnify and save harmless the Contractor from and against all claims, demands, losses, costs, damage, actions, suits or proceedings arising out of his activities under the contract which are directly attributable to

(a) a lack of title, a defect in title or an alleged lack of title or defect in title to the site of the work, or

(b) an infringement or an alleged infringement of any patent of invention in executing anything for the purposes of the contract, the model, plan or design of which was supplied by the Owner to the Contractor.

ELECTED MEMBERS

10(1) No member of the Legislative Assembly of the Province of New Brunswick shall be admitted to any share or part of the contract or to any benefit arising therefrom.

10(2) No member of the House of Commons of Canada shall be admitted to any share or part of the contract or to any benefit arising therefrom if Government of Canada funds are involved, whether directly or indirectly, in the payment for or financing of such contract.

SERVING NOTICES

11(1) Notices for the purposes of paragraph 16(1)(a), section 18 and section 19 shall be in writing and shall

(a) be delivered to the Contractor in person, or, if the Contractor is a corporation or partnership, be delivered to the superintendent or to a senior administrative officer of the corporation or partnership, or

(b) be sent by mail to the Contractor or his superintendent addressed to the address mentioned in the contract,

and if any question arises as to when any such notice was given to or received by the Contractor it shall be deemed to have been sufficiently given to and received by him,

(c) if it was delivered pursuant to paragraph (a), on the day it was delivered, or

(d) if it was sent by mail pursuant to paragraph (b), on the day it was received by the Contractor or on the sixth day after it was mailed, whichever is the earlier.

11(2) Any notice, order, direction, decision or communication, other than a notice to which subsection (1) refers, which may be given to the Contractor pursuant to the contract may be given in any manner, but it shall be deemed to have been sufficiently given to the Contractor if it was put in writing and the writing was

(a) delivered to the Contractor in person, or, if the Contractor is a corporation or partnership, was delivered to the superintendent or to a senior administrative officer of the corporation or partnership,

(b) left at the Contractor's office, or, if he has more than one office, at one of them, or

(c) sent by mail to the Contractor or his superintendent addressed to the address mentioned in the contract or to the Contractor's last known place of business or residence.

ADJUSTMENTS DUE TO SOIL CONDITIONS, NEGLECT OR DELAY

12(1) No payment, in addition to the payment expressly promised by the contract, shall be made by the Owner to the Contractor on account of any extra expense, loss or damage incurred or sustained by the Contractor including a misunderstanding on the part of the Contractor as to any fact, whether or not such misunderstanding is attributable directly or indirectly to the Owner or any of the Owner's agents or servants, and whether or not any negligence or fraud on the part of the Owner's agents or servants is involved, unless, in the opinion of the Engineer-Architect the extra expense, loss or damage is directly attributable to

(a) a substantial difference between information relating to soil conditions at the site of the work, or a reasonable assumption of fact based thereon, in the Plans and

Specifications or other documents or material communicated by the Owner to the Contractor for his use in preparing his tender and the real soil conditions encountered at the site of the work by the Contractor when executing the work, or

(b) neglect or delay occurring after the date of the contract on the part of the Owner in providing any information or in doing any act which the contract either expressly requires the Owner to do or which would be done by an Owner in accordance with the usage of the trade to enable his Contractor to carry out an undertaking similar to the work being executed under the contract for the Owner,

in which case, if as a condition precedent the Contractor has given to the Engineer-Architect written notice of his claim before the expiration of thirty days from the encountering of the soil conditions giving rise to the claim or from the day on which the neglect occurs or the delay commences, as the case may be, the Owner shall pay to the Contractor, in respect of the additional expense, loss or damage incurred or sustained by reason of that difference, neglect or delay, an amount equal to the cost of the additional plant, labour and material necessarily involved.

12(2) If, in the opinion of the Engineer-Architect, the Contractor has effected a saving of expenditure by reason of the execution of the work by the Contractor being rendered less difficult and less costly because the soil conditions actually encountered by the Contractor at the site if the work when executing the work are substantially different from soil conditions indicated in information, or a reasonable assumption of fact based thereon, in the Plans and Specifications or other documents or material communicated by the Owner of the Contractor for his use in preparing his tender, the amount set out in Article II of the Articles of Agreement shall be reduced by an amount equal to the saving effected by the Contractor.

12(3) Paragraph (1)(a) and subsection (2) are applicable only to a fixed price arrangement.

12(4) If information relating to soil conditions at the site of the work appeared in the Plans and Specifications or in other documents or material communicated by the Owner to the Contractor for his use in preparing his tender and if the real soil conditions encountered at the site of the work by the Contractor when executing the work are substantially different from such information, or a reasonable assumption of fact based thereon, so that the cost to the Contractor of executing the work is directly and substantially increased or decreased by reason of such difference, the Engineer-Architect and the Contractor may by agreement in writing amend the price per unit for any class of plant, labour or material involved therein, so that the benefit of a substantial decrease in cost shall accrue to the Owner and the burden of a substantial increase in cost shall not be borne by the Contractor.

12(5) Subsection (4) is applicable only to a unit price arrangement.

12(6) No claim by the Contractor shall be valid in situations where subsection (4) is applicable unless he has given written notice thereof to the Owner within thirty days from the encountering of the soil conditions giving rise to such claim.

OWNER'S TITLE TO PLANT, ETC.

13(1) All material and plant and the interest of the Contractor in all real property, licences, powers and privileges acquired, used or provided by the Contractor for the work shall from the time of being so acquired, used or provided, become and they are the property of the Owner for the purposes of the work and they shall continue to be the property of the Owner

(a) in the case of material, until incorporated in the work or until the Engineer-Architect certifies that he is satisfied that it will not be required for the work, and

(b) in the case of plant, real property, licences, powers and privileges, until the Engineer-Architect certifies that he is satisfied that the interest vested in the Owner therein is no longer required for the purposes of the work.

13(2) Material or plant that is the property of the Owner by virtue of this section shall not be taken away from the site of the work, or used or disposed of, except for the purposes of the work, without the consent in writing of the Engineer-Architect.

13(3) The Owner is not liable for loss or damage to material or plant that is the property of the Owner by virtue of this section and the Contractor is liable for such loss or damage notwithstanding that the material or plant is the property of the Owner.

CONTRACTOR'S LIABILITY FOR DAMAGE TO OWNER'S PLANT

14(1) The Contractor is liable to the Owner for loss of or damage to material, plant or real property, whether attributable to causes beyond his control or not, supplied or made available by the Owner to the Contractor for use in connection with the work other than loss or damage resulting from and directly attributable to reasonable wear and tear.

14(2) The Contractor shall not use material, plant or real property to which this section applies except for the purpose of carrying out this contract.

14(3) When the Contractor has failed to make good any loss or damage for which he is liable under this section within a reasonable time after being required by the Engineer-Architect to do so, the Engineer-Architect may cause the loss of damage to be made good, and the Contractor shall thereupon be liable to the Owner for the cost thereof and shall on demand pay to the Owner an amount equal to such cost.

14(4) The Contractor shall keep such records of material, plant and real property to which this section applies as the Engineer-Architect from time to time requires and shall, from time to time as the Engineer-Architect requires, satisfy the Engineer-Architect that such material, plant and real property are at the place and in the condition that they ought to be.

EXTENSION OF TIME AND PENALTY FOR DELAY IN COMPLETION

15(1) The Engineer-Architect may, on the application of the Contractor if made in accordance with the time limits in subsection 33(2) and made before the day fixed by Article I of the Articles of Agreement for completion of the work or any specified portion thereof or before any new date for completion previously fixed under this subsection, if in his opinion it is in the public interest, extend the time for completion of the work or any specified portion or portions thereof by fixing a new day for such completion.

15(2) Where the Contractor does not complete the work or any specified portion thereof by the day fixed by Article I of the Articles of Agreement for such completion or by such subsequent day, if any, to which the time for completion has been extended under subsection (1), but does complete the work or portion thereafter, the Contractor shall pay to the Owner

(a) where no statutory penalty is provided by subsection (3),

(i) an amount equal to all salaries, wages and travelling expenses paid by the Owner to persons superintending the work during the period of delay, which would not otherwise have been payable,

(ii) an amount equal to the value to the Owner of the use of the completed work for the period of delay, and

(iii) an amount equal to all other expenses and damages incurred or sustained by the Owner as a result of the work or specified portion thereof not being completed during the period of delay, or

(b) where a statutory penalty is provided for by subsection (3), the amount prescribed therein for each day the work or specified portion therefor was not complete during the period of delay.

15(3) (a) The Contractor shall pay to the Owner

(i) for each day of the period of delay during which the work in its entirety is not complete, the sum of ....., and

(ii) for each day of the period of delay during which the following specified portions of the work are not complete, the sum stated for such portion

(A) .....

(B) .....

(C) .....

(b) Where no penalty is stipulated in paragraph (a), the Contractor is not bound by this subsection.

15(4) For the purposes of this section,

(a) the work is deemed to be completed on the day specified by the Engineer-Architect in his Interim Certificate of Completion, and

(b) "period of delay" means the period commencing on the day fixed by Article I of the Articles of Agreement for completion of the work or any portion thereof or such subsequent day, if any, to which the time for completion has been extended under subsection (1) and ending on the day immediately preceding the day on which the work or portion thereof is completed.

15(5) The Engineer-Architect may waive the right of the Owner to the whole or any part of a payment payable pursuant to subsection (2).

DEFAULT OR REMOVAL OF WORK FROM CONTRACTOR

16(1) In any of the following cases, namely,

(a) where the Contractor has made default or delayed in commencing or in diligently executing the work or any portion thereof to the satisfaction of the Engineer-Architect and the Engineer-Architect has given notice thereof to the Contractor and has by such notice required the Contractor to put an end to such default or delay and such default or delay continues for six days after such notice was given,

(b) where the Contractor has made default in the completion of the work, or any portion thereof, within the time limited for such completion by the contract,

(c) where the Contractor has become insolvent,

(d) where the Contractor has committed an act of bankruptcy,

(e) where the Contractor has abandoned the work,

(f) where the Contractor has made an assignment of the contract without the required consent, or

(g) where the Contractor has otherwise failed to observe or perform any of the provisions of the contract,

the Owner may, without any other authorization, take all or any portion of the work out of the Contractor's hands and may employ such means as he may see fit to complete the work.

16(2) Where the work or any portion thereof has been taken out of the Contractor's hands under subsection (1), the Contractor shall not, except as provided in subsection (3), be entitled to any further payment in respect of the work so affected including payments then due and payable but not paid, and the obligation of the Owner to make payments in respect thereof as provided for in the Terms of Payment shall be at an end with respect to that portion of the work taken out of his hands, and the Contractor shall be liable to and upon demand therefor shall pay to the Owner an amount equal to all loss and damage suffered by the Owner by reason of the non-completion of the work by the Contractor.

16(3) Where the work or any portion thereof has been taken out of the Contractor's hands under subsection (1) and is subsequently completed by the Owner, the Engineer-Architect shall thereafter determine the amount, if any, of holdback and progress claims of the Contractor in respect thereof unpaid at the time of taking the work out of the Contractor's hands that in his opinion are not required by the Owner for the purposes of the contract and the Engineer-Architect shall, if he is of the opinion that no financial prejudice to the Owner will result, authorise payment of the amount to the Contractor.

CONTRACTOR'S CONTINUING OBLIGATION

17(1) The taking of the work, or any portion thereof, out of the Contractor's hands pursuant to section 16 does not relieve or discharge the Contractor from any obligation under the contract or imposed upon him by law except the obligation under the contract to complete the physical execution of that portion of the work so taken out of his hands.

17(2) If the work or any portion thereof is taken out of the Contractor's hands pursuant to section 16, all material and plant and the interest of the Contractor in all real property, licences, powers and privileges acquired, used or provided by the Contractor for the purpose of the work shall, notwithstanding subsection 13(1), be the property of the Owner without compensation to the Contractor.

17(3) If the Engineer-Architect certifies that any property interest of the Owner by virtue of subsection (2) is no longer required for the purposes of the work and that it is not in the interests of the Owner to retain the interest, it shall revert to the Contractor subject to the provisions of subsection 13(3).

SUSPENSION OF WORK

18(1) The Engineer-Architect may require the Contractor to suspend execution of the work either for a specified or unspecified period by giving notice to that effect to the Contractor.

18(2) The Contractor upon receiving notice of the Owner's requirement pursuant to subsection (1) shall suspend all operations except those which, in the Engineer-Architect's opinion, are necessary for the care and preservation of the work, material and plant.

18(3) During the period of suspension the Contractor shall not remove from the site any part of the work, any material or any plant without the consent of the Engineer-Architect.

18(4) If the period of suspension is thirty days or less, the Contractor, upon the expiration of the period of suspension, shall resume the execution of the work and except where the suspension order was due to the Contractor not diligently prosecuting the work or failing to prosecute the work in a good and workmanlike manner he is entitled to be paid the cost of any plant, labour and material necessary involved in complying with the suspension.

18(5) If the period of suspension is more than thirty days and if, upon the expiration of the period of suspension, the Engineer-Architect and the Contractor agree that the execution of the work be completed by the Contractor, the Contractor shall resume operations and complete the execution of the work in accordance with any terms and conditions agreed upon by the Engineer-Architect and the Contractor.

18(6) If upon the expiration of a period of suspension of more than thirty days, the Engineer-Architect and the Contractor do not agree that the work will be completed by the Contractor or they are unable to agree upon the terms and conditions under which the Contractor will complete the work, the notice of suspension shall be deemed to be a notice of termination pursuant to section 19.

TERMINATION OF CONTRACT

19(1) The Owner may at any time by giving notice to that effect terminate the contract.

19(2) The Contractor shall upon receipt of a notice pursuant to subsection (1) cease all operations forthwith.

19(3) If the contract is terminated pursuant to subsection (1), the Owner shall pay to the Contractor an amount equal to the lesser of

(a) the value as agreed upon by the Contractor and the Engineer-Architect of all work performed by the Contractor as of the date of termination or, if the Contractor and the Engineer-Architect cannot agree, as calculated in accordance with the formula set out in section 45, less all amounts already paid to the Contractor by the Owner and less all amounts which the Contractor is liable to pay to the Owner, and

(b) the amount calculated in accordance with the terms of payment which would have been payable to the Contractor had he completed the work.

19(4) If the contract is terminated pursuant to subsection (1), the Owner shall pay to the Contractor an amount equal to the value as agreed upon by the Contractor and the Engineer-Architect of all work performed by the Contractor as of the date of termination or, if the Contractor and the Engineer-Architect cannot agree, as calculated in accordance with the formula set out in section 45, less all amounts already paid to the Contractor by the Owner and less all the amounts which the Contractor is liable to pay to the Owner.

19(5) Subsection (3) is applicable only to a fixed price arrangement and subsection (4) is applicable only to a unit price arrangement.

PAYMENT BY OWNER OF CONTRACTING OBLIGATIONS

20(1) The Owner may, in order to discharge lawful obligations of and satisfy lawful claims against the Contractor or a subcontractor arising out of the execution of the work, pay an amount which is due and payable to the Contractor, under any provision of the contract, directly to the obligees of and the claimants against the Contractor or the subcontractor.

20(2) A payment made pursuant to subsection (1) is to the extent of the payment a discharge of the Owner's liability under the contract to the Contractor.

20(3) The Contractor shall discharge all his lawful obligations and shall satisfy all lawful claims against him arising out of the execution of the work as the same become due.

20(4) The Contractor shall, whenever so requested by the Engineer-Architect, make a statutory declaration deposing to the existence and condition of the obligations and claims referred to in subsection (3).

ACCESS TO WORK BY OWNER

21 The Contractor shall permit the Engineer-Architect to have access to the work and to all areas where portions of the work are being fabricated or manufactured at all times during the execution of the work, shall provide the Engineer-Architect with full information concerning what is being done to execute the work and shall give the Engineer-Architect every possible assistance in respect of the performance of his duty to see that the work is executed in accordance with the contract and also in respect of the performance and exercise of the duties and powers specially imposed or conferred on him by the contract.

CLEAN UP

22 The Contractor shall upon completion of the work clear and clean the work and its site to the satisfaction of and in accordance with any directions of the Engineer-Architect.

CONTRACTOR'S SUPERINTENDENT

23(1) The Contractor shall, during working hours, until the work has been completed, keep on the site of the work a competent superintendent who has authority to receive on behalf of the Contractor any order, direction or other communication that may be given under the contract.

23(2) The Contractor shall, upon the request of the Engineer-Architect, remove any superintendent who, in the opinion of the Engineer-Architect, is incompetent or has been conducting himself improperly and shall replace a superintendent so removed with another superintendent as described in subsection (1).

REMOVAL OF CONTRACTOR'S EMPLOYEES

24 The Contractor shall, at the request of the Engineer-Architect, remove from the work any person employed on the work who, in the opinion of the Engineer-Architect, is incompetent or has been conducting himself improperly and the Contractor shall not permit a person so removed to remain on the site of the work.

ESCALATION - LABOUR - MATERIAL

25(1) Except where the Labour Conditions contain an escalation clause, the amount payable to the Contractor under the contract shall not be increased or decreased by reason of any increase or decrease in the cost of the work brought about by an increase or decrease pursuant to the Labour Conditions.

25(2) Notwithstanding section 12 and subsection (1) of this section, the amount set out in Article II of the Articles of Agreement shall be adjusted, in the manner provided in subsection (3), in the event of any change in any tax imposed under the Social Services and Education Tax Act, chapter S-10 of the Revised Statutes of New Brunswick, 1973, or the Excise Tax Act, chapter E-13 of the Revised Statutes of Canada, 1970,

(a) after the date of the submission by the Contractor of the tender for the contract, and

(b) that applies to the material incorporated or to be incorporated in the work and that affects the cost to the Contractor of such material.

25(3) In the event of any change after the date of submission of the tender for the contract by the Contractor in any tax described in subsection (2) that applies to the material incorporated or to be incorporated in the work and that affects the cost to the Contractor of such material, the amount set out in Article II of the Articles of Agreement shall

(a) be increased where the cost to the Contractor of any material has been increased by virtue of the change, or

(b) be decreased where the cost to the Contractor of any material has been decreased by virtue of the change.

by an amount equal to such amount as it is established upon examination of the relevant records of the Contractor referred to in section 47, represents the increase or decrease, as the case may be, in the cost to the Contractor of the material involved that is directly attributable to the change in the tax levied on or in respect of such material.

25(4) For the purpose of determining the adjustment in the amount set out in Article II of the Articles of Agreement by virtue of any change in any tax described in subsection (2), where such tax is changed after the date of submission of the tender by the Contractor but public notice of such change has been given by the Minister of Finance of the Province or the Federal Government, as the case may be, before the date of submission of the tender, the change of such tax shall, for the purposes of this section, be deemed to have occurred before the date of submission of the tender.

25(5) The Contractor is not entitled to any part of a rebate of taxes obtained by the Owner.

USE OF LOCAL LABOUR AND MATERIAL

26(1) The Contractor shall use Canadian labour and material in carrying out the work, to the full extent to which they are procurable, consistent with proper economy and the expeditious carrying out of the work.

26(2) Subject to subsection (1), the Contractor shall employ labour and obtain material from the locality where the work is being executed to the extent to which it is available and shall use the offices of the Canada Employment Centre in the recruitment of workmen wherever practicable.

26(3) Subject to subsections (1) and (2), the Contractor shall employ a reasonable proportion of persons who have served on active service with the armed forces of Canada and have been honourably discharged therefrom.

SAFETY

27(1) If, in the opinion of the Engineer-Architect, the Contractor is not conducting construction of the work with proper safety precautions for workmen as prescribed by the Occupational Health and Safety Regulation - Occupational Health and Safety Act, the Engineer-Architect may, by giving notice in writing to the Contractor, stop the work.

27(2) Where under subsection (1) the Engineer-Architect has stopped the work, the Contractor shall immediately cease his operations until the provisions of the Occupational Health and Safety Regulation - Occupational Health and Safety Act have been complied with to the satisfaction of the Engineer-Architect.

27(3) No extension of time or monetary allowances shall be made to the Contractor for loss or delay arising from any stoppages in work under this section.

PROTECTION OF WORK

28 The Contractor shall guard or otherwise protect the work and shall protect the specifications, plans, drawings, information, material, plant and real property provided by the Owner to the Contractor against loss or damage from any cause.

PUBLIC CEREMONIES

29(1) The Contractor shall not allow or permit any public ceremony in connection with the work without the permission of the Owner.

29(2) The Contractor shall not erect or permit the erection of any sign or advertising on the work without the approval of the Engineer-Architect.

INSURANCE

30(1) The Contractor shall at his own expense maintain such insurance policies, if any, as are required under this contract in a form and with companies approved by the Owner and of the nature, in the amounts, for the periods and containing the terms and conditions, if any, set out in the Insurance Schedule.

30(2) All insurance policies covering the work and maintained by the Contractor pursuant to subsection (1) shall provide that the proceeds thereof are payable to the Owner, except where the Insurance Schedule otherwise provides.

30(3) The Contractor shall deposit with the Engineer-Architect the originals of all policies of insurance maintained by the Contractor pursuant to subsection (1) and the Contractor shall, when required by the Engineer-Architect, submit to him proof that such policies are in force.

30(4) Upon application by the Contractor, the Engineer-Architect may waive compliance with subsections (2) and (3).

FIRE LOSS

31(1) If the work or any portion thereof is lost or destroyed and monies are paid to the Owner in respects of the loss or damage under a policy of insurance maintained by the Contractor pursuant to section 30, the monies shall be held by the Owner for the purposes of the contract.

31(2) The Owner may elect to retain absolutely the monies held under subsection (1) and, in such event, the monies belong absolutely to the Owner and

(a) the Contractor is liable to the Owner in an amount equal to the amount by which the insurance monies payable is less than the loss and damages suffered and sustained by the Owner, including costs associated with clearing and cleaning the site of the work, and

(b) there shall be a financial accounting between the Owner and the Contractor in respect of the portion of the work which was lost or damaged and respect of which monies have been retained absolutely by the Owner and there shall be included in the financial accounting all amounts paid or payable by the Owner under the contract to the Contractor, together with all amounts paid or payable by the Contractor under the contract to the Owner and the Owner shall pay to the Contractor any balance.

31(3) Upon payment as required by subsection (2) by the Owner or the Contractor as the case may be, the Owner and the Contractor are discharged from all rights and obligations under the Contract in respect of the portion of the work which was lost or damaged and in respect of which monies have been retained absolutely by the Owner as though such portion of the work had been fully completed and executed by the Contractor in accordance with the contract.

31(4) If an election is not made under subsection (2), the Contractor shall restore and replace the portion of the work lost or damaged and the insurance monies shall be disbursed by the Owner to the Contractor in the manner and subject to the terms and conditions governing monies payable under the contract to the Contractor by the Owner, except that for the purpose of this subsection "one hundred percent" shall be substituted in subsection 4(6) of the Terms of Payment for "ninety-five percent" and "eighty-five percent".

CONTRACTOR'S RESPONSIBILITIES

32(1) The Contractor shall at his own expense do whatever is necessary to ensure that

(a) no person, property, right, easement or privilege is injured, damaged or infringed by reason of the Contractor's activities under this contract,

(b) pedestrian and other traffic on any public or private road or waterway is not unduly impeded, interrupted or endangered by the execution or existence of the work and plant,

(c) fire hazards are eliminated and in the case of a fire in or about the work that it is promptly extinguished,

(d) the health of all persons employed on the work is not endangered,

(e) adequate medical supervision of all persons employed on the work is maintained,

(f) adequate sanitation measures in respect of the work are taken, and

(g) all stakes, buoys, lines, levels, and marks placed on or about the works by or under the authority of the Engineer-Architect are protected and are not removed, defaced or altered.

32(2) The Engineer-Architect may direct the Contractor to do such things and to construct such works which the Engineer-Architect considers reasonable and necessary to ensure compliance with or to remedy a breach of subsection (1).

32(3) The Contractor shall at his own expense comply with a direction of the Engineer-Architect made pursuant to subsection (2).

INTERPRETATIONS OF CONTRACT DOCUMENTS - CLAIMS ARISING

33(1) If at any time before the work has been completed and the Engineer-Architect has issued his Final Certificate of Completion, any question arises as to whether anything has been done as required by the contract or as to what the Contractor is required by the contract to do, and in particular, and without limiting the generality of the foregoing, as to

(a) the meaning of anything in the Plans and Specifications,

(b) the meaning to be given to the Plans and Specifications in case of any error therein, an omission therefrom, or an obscurity or discrepancy in the wording or intention thereof,

(c) whether the quality or quantity of any material or workmanship meets the requirements of the contract,

(d) whether the plant, material or workmen provided by the Contractor for executing the work and carrying out the contract are adequate to ensure that the work will be executed in accordance with the contract and that the contract will be carried out in accordance with its terms,

(e) what quantity of any kind of work has been completed by the Contractor, or

(f) the timing and scheduling of the various phases of the execution of the work,

the question shall be decided by the Engineer-Architect whose decision is final and binding.

33(2) In matters arising other than under section 12, the Contractor shall, where he intends to submit a claim for additional time or money arising out of the construction of the work, give written notice of his intention to claim

(a) in the case of changes or alterations of the work ordered by the Engineer-Architect, within fourteen days of receipt of the notice of change, and

(b) in the case of a dispute arising out of interpretation of the contract, within thirty days of the first occurrence of the circumstances giving rise to the dispute.

33(3) In matters arising other than under section 12, the Contractor may submit a claim for additional time or money only on those matters covered by the notice of intention to claim given under subsection (2) and such claim if not submitted within thirty days of the occurrence of the portion of the work out of which the claim arises shall be barred.

33(4) The Engineer-Architect shall within thirty days of receipt of a notice of claim under this section render his decision in writing to the Contractor.

33(5) The Contractor shall construct the work in accordance with the decisions and directions of the Engineer-Architect given under this section and in accordance with any consequential decisions and directions given by the Engineer-Architect.

DEFECTS AND OMISSIONS

34(1) Without restricting any warranty or guarantee implied or stipulated by law, the Contractor shall at his own expense rectify and make good any defect or fault or omission that appears in the work within twelve months or within such additional period of time stipulated in the Specifications concerning particular portions of the work from the date of the Engineer-Architect's Final Certificate of Completion, or where an Interim Certificate of Completion has been issued under section 39, from the date of such Interim Certificate.

34(2) If any defect, fault or omission appears in the work and the Engineer-Architect is of the opinion that it is one which the Contractor, either under subsection (1) or under a warranty or guarantee implied or stipulated by law, is obliged to remedy and make good, the Engineer-Architect may direct the Contractor to remedy and make good the defect, fault or omission by giving notice to the Contractor of the existence of the defect, fault or omission and the notice shall specify the time within which the defect, fault, or omission is to be rectified and made good.

34(3) The Contractor shall rectify and make good the defect, fault or omission described in a notice given pursuant to subsection (2) within the time specified in the notice.

OWNER'S RIGHT TO COMPLETE WORK

35(1) Where the Contractor has failed to comply with any decision or direction given by the Engineer-Architect under section 22, 32, 33, or 34, the Engineer-Architect may employ such methods as he may deem expedient to do that which the Contractor failed to do.

35(2) The Contractor shall on demand pay to the Owner all costs, expenses and damages incurred or sustained by the Owner by reason of the Contractor's non-compliance with any decision or direction given by the Engineer-Architect under this section 22, 32, 33, or 34 and by the action taken by the Engineer-Architect pursuant to subsection (1).

CONTRACTOR'S RIGHTS ON DISPUTED DECISION

36 If the Contractor has, within ten days of communication to him by the Engineer-Architect of any decision or direction of the Engineer-Architect under section 22, 32, 33, or 34, given notice to the Engineer-Architect in writing disputing such decision or direction and stating the ground or grounds which form the basis of such dispute, the Owner shall pay to the Contractor the cost of the additional labour, material and plant necessarily involved in carrying out the decision or direction beyond what the Contract, correctly understood and interpreted, would have required the Contractor to do.

CHANGES IN THE WORK

37(1) The Engineer-Architect may at any time before he issues his Final Certificate of Completion, in writing,

(a) order work or material in addition to that provided for in the Plans and Specifications, and

(b) delete work or change the dimensions, nature, character, quantity, quality, description, location or position of the whole or any part of the work or material provided for in the Plans and Specifications or as ordered pursuant to paragraph (a),

and the Contractor shall execute the work in accordance with such orders, deletions, and changes as if the same had appeared in and been part of the Plans and Specifications.

37(2) The Engineer-Architect shall determine whether anything done or not done by the Contractor pursuant to an order, deletion or change made by the Engineer-Architect pursuant to subsection (1) increased or decreased the cost of the work to the Contractor.

37(3) If the Engineer-Architect determines under subsection (2) that the cost has been increased, the Owner shall pay to the Contractor the cost of the additional labour, material and plant necessarily involved.

37(4) If the Engineer-Architect determines under subsection (2), that the cost has been decreased, the Owner may reduce the amount payable to the Contractor under the contract by the amount equal to the reduction in cost of the labour, material and plant involved.

37(5) Where provision for the calculation of increased and decreased cost under subsections (3) and (4) is contained in the Contract Documents, such cost shall be calculated in accordance therewith.

RELATIONS WITH OTHER CONTRACTORS

38(1) Wherever work being done by the Owner's forces or by other contractors is contiguous to work covered by this contract, the respective rights of the various interests involved shall be established by the Engineer-Architect to secure the completion of the various portions of the work in general harmony.

38(2) The Owner reserves the right to let other contracts in connection with this project and the Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their material and the execution of their work and shall properly connect and co-ordinate his work with theirs.

38(3) If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the Engineer-Architect any defects in such work that render it unsuitable for such proper execution or results and his failure so to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work except as to defects which may develop in the other contractor's work after the execution of this work.

38(4) To insure the proper execution of his subsequent work, the Contractor shall measure work already in place and shall at once report to the Engineer-Architect any discrepancy between the executed work and the drawings.

INTERIM CERTIFICATE OF COMPLETION

39(1) If the Engineer-Architect is satisfied that the work is substantially completed and is acceptable for use by the Owner, he may at any time before issuance of a Final Certificate of Completion issue to the Contractor an Interim Certificate of Completion, and shall describe therein the portions of the work not completed to his satisfaction, state those quantities which require additional measurements and all things which must be done by the Contractor before a Final Certificate of Completion can be issued.

39(2) As soon as reasonably possible after

(a) the work has been completed, and

(b) the Contractor has complied with the contract and all orders and directions made pursuant thereto,

to the satisfaction of the Engineer-Architect, he shall issue to the Contractor a Final Certificate of Completion.

39(3) The Engineer-Architect, before issuing a Final Certificate of Completion, may, in addition to the matter described in the Interim Certificate of Completion, require the Contractor to rectify any other portions of the work not completed to the satisfaction of the Engineer-Architect and to do any other things necessary for the completion of the work.

39(4) The Engineer-Architect shall measure and keep records of his measurements of the quantities of labour, material and plant performed, used and supplied by the Contractor in executing the work and shall, at the request of the Contractor, inform him of his measurements and the Contractor shall assist and co-operate with the Engineer-Architect in such measuring and is entitled to inspect the records of measurements kept by the Engineer-Architect.

39(5) On the day that the Engineer-Architect issues his Final Certificate of Completion under subsection (2), he shall issue a Final Certificate of Measurement showing the quantity of labour, plant and material performed, used and supplied by the Contractor in executing the work and all measurements included therein shall be binding upon the Owner and the Contractor and are exclusive between them as to the quantity of any labour, plant or material performed, used or supplied by the Contractor in executing the work.

39(6) Subsections (4) and (5) are applicable only to a unit price arrangement.

CONVERSION OF SECURITY DEPOSIT

40(1) If the work is taken out of the Contractor's hands pursuant to section 16 or if the contract is terminated pursuant to section 19 or if the Contractor is in breach of or in default under the contract, the Owner may negotiate the security deposit, in the case of bonds, or convert the security deposit to the Owner's own use, in the case of money, and the amount realized by the Owner shall be deemed to be a debt by the Owner to the Contractor and the Owner shall have the right of set-off and may set-off against the debt any sum or amount which the Contractor may be liable to pay to the Owner and the balance of the debt, if any, after the right of set-off has been exercised, shall if such balance, in the opinion of the Engineer-Architect, is not required for the purpose of the contract and subject always to the provisions of section 20 be paid by the Owner to the Contractor.

40(2) The Owner may retain for the purpose of the contract any balance of moneys, otherwise payable to the Contractor under subsection (1).

RETURN OF SECURITY DEPOSIT

41(1) Upon the Engineer-Architect's Interim Certificate of Completion being issued, the Owner shall, if the Contractor is not in breach of or in default under the contract, return to the Contractor that part of the security deposit covering performance of the work which, in the opinion of the Engineer-Architect, is not required for the purposes of the contract.

41(2) Where the security deposit was converted to cash, the Owner shall pay to the Contractor the interest accrued thereon to the date of payment to the Contractor, but in no case shall the interest payable by the Owner exceed the amount paid to the owner thereon as a result of the Owner complying with subsection 20(2) of the General Regulation - Crown Construction Contracts Act and in no case shall interest be paid by the Owner to the Contractor on that portion of the security deposit taken or used by the Owner in accordance with the provisions of this Agreement.

PERMITS AND LICENCES

42(1) The Owner shall furnish all surveys unless otherwise specified.

42(2) Permits and licences of a temporary nature normally required for the prosecution of the work shall be secured and paid for by the Contractor.

42(3) Easements or other authorizations for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner unless otherwise specified.

42(4) No extension of time for completion of the work shall be allowed due to delay for any cause in the obtaining by the Contractor of the licences and permits described in subsection (1), (2), or (3) except where such delay is the direct result of actions of the Owner.

DETERMINATION OF COST - UNIT PRICE

43 Whenever it is necessary for the purposes of sections 12, 18, 36 and 37 to determine the cost of labour, plant or material, the Unit Price Table shall be used, that is, the cost shall be equal to the product of the agreed quantity of such labour, plant or material expressed in the appropriate unit of measurement multiplied by the price in respect of such unit.

DETERMINATION OF COST - AGREEMENT

44 If the method of determination in section 43 cannot be used because the labour, plant or material involved is not included in the Unit Price Table, the cost of the labour, plant or material for the purposes of sections 12, 18, 36 and 37 shall be the amount agreed upon from time to time by the Contractor and the Engineer-Architect.

DETERMINATION OF COST - COST PLUS

45(1) Where the method of determination provided for in section 43 cannot be used and the Engineer-Architect and Contractor do not agree as provided in section 44, the Owner and the Contractor may, by an agreement in writing, agree to determine the cost of labour, plant or material for the purposes of section 12, 18, 36 and 37 to be equal to the aggregate of

(a) all reasonable and proper amounts actually expended by or legally payable by the Contractor in respect of the labour, plant or material which fall within any of the classes of expenditure described in subsection (2) (being costs which are directly attributable to the execution of the work and are not costs in respect of which the allowance in paragraph (b) is made), and

(b) fifteen percent of the total of the expenditures of the Contractor that meet the test in paragraph (a), as an allowance for all other expenditures by the Contractor and for profit, and without limiting the generality of the foregoing, being also an allowance for payments and charges relating to overhead, head office expenses and general administration costs of the Contractor, including finance and interest charges, or, five percent of such expenditures where the Contractor has the work done by a subcontractor: provided that such allowance shall not be applied to any portion of the expenditures identified under paragraph (2)(h) in which the Machine Rental Regulation - Crown Construction Contracts Act is used to calculate such expenditure; but where the cost determination arises solely out of a change order issued pursuant to section 37 and the value of that change order, as estimated by the Engineer-Architect at the time of its issue, is $2,500 or less, then twenty percent of the total of the expenditures of the Contractor that meet the test in paragraph (a), as an allowance for all other expenditures by the Contractor and for profit, and without limiting the generality of the foregoing, being also an allowance for payments and charges relating to overhead, head office expenses and general administration costs of the Contractor, including finance and interest charges, or, ten percent of such expenditures where the Contractor has the work done by a subcontractor: provided that such allowance shall not be applied to any portion of the expenditures identified under paragraph (2)(h) in which the Machine Rental Regulation - Crown Construction Contracts Act is used to calculate such expenditure.

45(2) Classes of expenditure that are allowable are:

(a) payments to subcontractors, agreed to by the Owner;

(b) wages, salaries and travelling expenses of employees of the Contractor while they are actually and properly engaged on the work, other than wages, salaries, bonuses, living and travelling expenses, of personnel of the Contractor generally employed at the head office or at a general office of the Contractor unless such personnel is engaged at the site of the work with the approval of the Engineer-Architect;

(c) payments for material necessary for and incorporated in the work, or necessary for and consumed in the execution of the work;

(d) payments for consumable tools, other than tools customarily provided by tradesmen, necessary for and used in the execution of the work;

(e) payments for preparation, inspection, delivery, installation and removal of material necessary for the execution of the work;

(f) payments for renting, erecting, maintaining, and removing temporary offices, sheds and similar structures necessary for and used by the Contractor in executing the work;

(g) assessments in respect to the work payable under any statutory requirement or other agreements relating to payroll burdens;

(h) payments for renting plant and allowances for plant owned by the Contractor necessarily for the execution of the work providing that such payments or allowances are reasonable and do not exceed the equipment rental rate set out in the Machine Rental Regulation - Crown Construction Contracts Act;

(i) payments for inspection, delivery, installation and removal of plant necessary for the execution of the work; and

(j) other payments made with the approval of the Engineer-Architect that are necessary for the execution of the work.

DEFINITION OR DETERMINATION OF COST

46(1) For the purposes of sections 44 and 45 and except as in those sections specifically provided, plant does not include tools.

46(2) For the purposes of sections 43, 44 and 45, "Unit Price Table" means the table referred to in Article VI of the Articles of Agreement.

MAINTAIN RECORDS BY CONTRACTOR

47(1) The Contractor and each subcontractor shall maintain

(a) the detail of the compilation of his estimate showing labour, material, plant, overhead and all other elements entering into his unit or lump sum prices as prepared for the purpose of tender, and

(b) full records of the actual cost to him of the work together with all proper tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto,

and shall make them available to audit and inspection by the Owner, the Comptroller of the Province of New Brunswick, or by persons acting on their behalf, shall allow them to make copies thereof and to take extracts therefrom, and shall furnish them with any information which they may require from time to time in connection with such records.

47(2) The records maintained by the Contractor and each subcontractor pursuant to this section shall be kept intact until the expiration of two years from the date of issuance of the Final Certificate of Completion under subsection 39(2) or until the expiration of such other period as the Owner may direct.

47(3) The Contractor shall require all subcontractors and all firms, corporations and persons directly or indirectly controlled by or affiliated with the Contractor and all firms, corporations and persons directly or indirectly having control of the Contractor to comply with subsections (1) and (2) as if they were the Contractor.

WORK SCHEDULE

48(1) Except as otherwise provided in the Contract Documents, the Contractor shall submit to the Engineer-Architect within thirty days of the formal notice of award of contract a work schedule satisfactory to the Engineer-Architect showing therein the time, rate, and order of construction he proposes for the various portions of the work.

48(2) No progress claims shall be paid by the Owner during the time while the Contractor is in default under subsection (1).

COST BREAKDOWN OF LUMP SUM WORK

49 The Contractor shall, on contracts which are wholly lump sum or partly lump sum and partly unit price, submit a schedule to the Owner showing the cost breakdown of the lump sum work to assist the Engineer-Architect in assessing progress claims.

CONTRACTOR'S JOB OFFICE

50(1) The Contractor shall provide a temporary weather tight job office, located in an area approved by the Engineer-Architect, for his own use complete with facilities for filing drawings, specifications, correspondence, purchase orders and such other appurtenances as are necessary for the proper conduct of the work and shall remove same upon completion of the work.

50(2) The Contractor shall provide a telephone in the job office described in subsection (1) where practicable.

50(3) The Contractor shall at all times during construction of the work maintain in the job office required by subsection (1) a complete and current set of plans, specifications and change orders for this contract.

RECORD OF IMPORTED PLANT

51 The Contractor shall deliver to the Engineer-Architect each time a Progress Claim is submitted a statement, signed by a responsible person on behalf of the Contractor, setting forth an accurate record of the serial number, type and date of arrival in the Province of all construction equipment brought into the Province and used during the immediately preceding Payment Period in performance of the work, the arrival of which had not been previously reported, together with the date of departure from the Province of any such equipment which had been so used.

COPY PURCHASE ORDERS

52(1) Where the accepted tender for the construction of the work exceeds fifty thousand dollars, the Contractor shall maintain on the construction site one copy of every purchase order used in acquiring services and material for incorporation into the work of this contract and allow the Engineer-Architect or his authorized representative access thereto.

52(2) A copy of each purchase order shall be made available to the Engineer-Architect at the job site prior to incorporation of the material purchased thereby into the work.

ARBITRATION

53(1) Any claim or dispute involving the Owner and the Contractor may, by mutual agreement of the parties, be submitted to arbitration.

53(2) Should the Owner in accordance with this section agree to enter into an Agreement to Arbitrate, the Agreement shall be limited to matters contained in the claim submitted by the Contractor and shall stipulate that the arbitration is not binding on either party.

E

This document is the document referred to as "Insurance Schedule" and marked "E" in the Articles of Agreement entered into on the ..... day of ..... 20..... between the Owner and the Contractor.

DEPARTMENT OF TRANSPORTATION

Signed

_____
Owner

_____
Contractor

INSURANCE SCHEDULE

General Items

1) The Contractor shall at his own expense, procure and maintain insurance policies which shall include the endorsements and extensions as detailed below.

2) The Contractor shall provide the Department with proof of coverage in the form of a certificate issued by Workplace Health, Safety and Compensation Commission (WHSCC) of New Brunswick identifying the contractor as registered and in good standing with WHSCC. Such proof of coverage will be provided to the Department in conjunction with the execution of the contract as well as is stipulated under the Terms of Payment A of the contract.

3) The Contractor shall provide to the Department of Transportation a Confirmation of Coverage as required by the Department which shall be signed by an authorized representative of the Insurer.

Part A - Course of Construction

The Insurance Policy required under this Part A shall include:

a) a limit of coverage equal to 100% of the value of the Structure(s)

b) Broad Form coverage including Flood and Earthquake

c) a Replacement Cost basis of settlement

d) all designated parties as Loss Payees

e) a Waiver of Subrogation

f) coverage for "By-laws"

g) a 30 day notice provision

h) resultant damage coverage

All as detailed on the Department's Confirmation of Coverage form.

continued ...

Part B - Commercial General Liability

The Insurance policy required under this Part B shall include:

a) an "occurrence" definition of "accident"

b) the Province as an Additional Insured

c) Owners and Contractors Protective Liability

d) a Cross Liability clause

e) a waiver of subrogation

f) Blanket Contractual Liability

g) Products/Completed Operations Liability

h) Broad Form Property Damage

i) Non-owned Automobile Liability

j) Contingent Employers Liability

k) Personal Injury extension of Bodily Injury

l) coverage for machinery attached to vehicles

m) a 30 day notice provision

n) coverage for operations involving explosives, pile driving, support of any property (XCU) performed by sub-contractors. Where the Contractor performs such operations himself he shall obtain suitable coverage and shall provide the Department with a Confirmation of Coverage signed by an Authorized Representative of the Insurer signifying the validity of the Coverage. Such Confirmation shall be provided to the Department prior to the commencement of any XCU work and shall include all Schedule E requirements for Liability Insurance (Items a to o inclusive)

o) Liability Limits of not less than $2,000,000 or as currently carried by the Contractor whichever is greater

and such policy shall not be on a "Claims Made" Form.

All as detailed on the Department's
Confirmation of Coverage form

Part C - Automobile Liability

The Insurance policy required under this Part C shall include:

a) coverage for the liability for all vehicles owned, hired, or leased in the performance of the Project

b) Limits of Liability of not less than $2,000,000 or as currently carried by the Contractor whichever is greater

continued ...

Part D - Special Items

a) The Department reserves the right to require the Contractor to insure his property, plant and equipment, for such amounts as the Department deems adequate, and to require the Contractor to file with the Department evidence of such insurance in a format acceptable to the Department.

b) The Department further reserves the right to require the Contractor to carry such other insurances as are deemed appropriate by the Department having regard to the nature of the project undertaken.

c) The insurance requirements as set out in this Schedule E and supporting forms shall not in any way limit the Contractor's liability arising out of the project, contract or otherwise.

d) All insurances required to be provided and maintained by the Contractor shall be negotiated for, procured from, and the premium paid to a resident agent of an Insurance Company licensed to do business in the Province of New Brunswick.

e) The requirement of the Contractor to provide Confirmations of Coverage to the Department shall survive the completion of the project. The Department reserves the right to ask for and the Contractor specifically agrees to provide evidence of insurance covering the period subsequent to the term of the project contract for such eventualities as warranty periods, maintenance periods, the completion of deficiency lists, etc.

CONTRACT NO._____

CONFIRMATION OF COVERAGE

The Insurance coverages procured and maintained by the Contractor for this contract are understood and agreed to include the following:

COURSE OF CONSTRUCTION (BUILDERS RISK)

- Broad Form coverage (IBC 4042 or better) including Flood and Earthquake in an amount equal to 100% of the value of the structure(s) (Schedule E items a and b)

- Replacement Cost basis (Item c)

- Policy written in the name of Her Majesty the Queen in Right of Province of New Brunswick, Represented by the Minister of Transportation ("Owner"), the Contractor and the sub-contractors as their interests may appear (Item e)

- Insurer's Waiver of Subrogation against Her Majesty the Queen et al (Item f)

- Deletion of "By-laws" exclusion (Item g)

- Thirty days prior written notice to the Department of Transportation of any change to, cancellation or lapse of the Insurance coverage (Item h)

- Coverage for resultant damage of faulty or improper material, workmanship and/or design (Item i)

Name of Insurance Company: _____

Policy Number: _____

_____ _____

Date Signature of Authorized Representative of Insurance Company

Revised January 01, 2005

CONTRACT NO._____

CONFIRMATION OF COVERAGE

The Insurance coverages procured and maintained by the Contractor for this contract are understood and agreed to include the following:

COMMERCIAL GENERAL LIABILITY

- "Occurrence" definition of "accident" (Schedule E, Item a)
- Her Majesty the Queen in Right of the Province of New Brunswick Represented by the Minister of Transportation included as Additional Insured

  The addition of the Province as Additional Insured shall not prevent recovery in any situation in which recovery would have been available had the Province not been so named (Item b)
- Owners and Contractors Protective Liability (Item c)
- Cross Liability Clause respecting All Insureds (Item d)
- Insurer's Waiver of Subrogation against Her Majesty the Queen et al (Item e)
- Blanket Contractual Liability (Item f)
- Products/Completed Operations Liability (Item g)
- Broad Form Property Damage (Item h)
- Non-owned Automobile Liability (Item i)
- Contingent Employers Liability (Item j)
- Personal Injury (Item k)
- Coverage extended to include machinery attached to automobiles (Item l)
- Thirty days prior written notice to the Department of Transportation of any change to, cancellation or lapse of the Insurance coverage (Item m)
- Coverage for

  a) Property Damage arising out of operations involving explosives, pile driving, or removal or weakening of support of any property, (XCU) where the work is performed by sub-contractors and

  b) for Property Damage arising out of the same perils (XCU) included within the Products or Completed Operations coverage whether performed by the Contractor or sub-contractors. (Item n)

- Limit of Liability of not less than $2,000,000 or as currently carried by the contractor whichever is greater (Item o)

- Occurrence Policy Form (not Claims Made)

Name of Insurance Company: _____

Policy Number: _____

_____
Date

_____
Signature of Authorized Representative
of Insurance Company

Revised January 01, 2005

CONTRACT NO._____

CONFIRMATION OF COVERAGE

The Insurance coverages procured and maintained by the Contractor for this contract are understood and agreed to include the following:

AUTOMOBILE LIABILITY

- Covering all motor vehicles owned, hired or leased in the performance of the Project

- Limit of Liability of not less than $2,000,000 or as currently carried by the contractor whichever is greater

Name of Insurance Company: _____

Policy Number: _____

_____ Date

_____ Signature of Authorized Representative of Insurance Company

Revised January 01, 2005

CONTRACT NO._____

CONFIRMATION OF COVERAGE

The Insurance coverages procured and maintained by the Contractor for this contract are understood and agreed to include the following:

GENERAL LIABILITY FOR BLASTING OPERATIONS

- "Occurrence" definition of "accident" (Schedule E, Item a)

- Her Majesty the Queen in Right of the Province of New Brunswick Represented by the Minister of Transportation included as Additional Insured

  The addition of the Province as Additional Insured shall not prevent recovery in any situation in which recovery would have been available had the Province not been so named (Item b)

- Owners and Contractors Protective Liability (Item c)

- Cross Liability Clause respecting All Insureds (Item d)

- Insurer's Waiver of Subrogation against Her Majesty the Queen et al (Item e)

- Blanket Contractual Liability (Item f)

- Products/Completed Operations Liability (Item g)

- Broad Form Property Damage (Item h)

- Non-owned Automobile Liability (Item i)

- Contingent Employers Liability (Item j)

- Coverage extended to include machinery attached to automobiles (Item l)

- Thirty days prior written notice to the Department of Transportation of any change to, cancellation or lapse of the Insurance coverage (Item m)

- Limit of Liability of not less than $2,000,000 or as currently carried by the contractor whichever is greater (Item o)

- Occurrence Policy Form (not Claims Made)

Name of Insurance Company: _____

Policy Number: _____

_____ Date

_____ Signature of Authorized Representative of Insurance Company

Revised January 01, 2005

New Nouveau
Brunswick

PROVINCE OF NEW BRUNSWICK

DEPARTMENT OF TRANSPORTATION

FORM OF TENDER

FOR

CONTRACT No.

ITEM No.	ITEM UNIT PRICE, LUMP SUM PRICE (FIXED PRICE), AS THE CASE MAY BE, SHALL BE EITHER TYPEWRITTEN, PRINTED OR WRITTEN IN INK IN WORDS IN THE SPACE PROVIDED FOR EACH ITEM IN THIS COLUMN ARTICLE Le prix unitaire, le prix forfaitaire (prix fixé), selon le cas, dois être inscrit ci-dessous en toutes lettres, soit à la machine à écrire, soit imprime à l'encre dans l'espace réservé à chaque article.	MEASURE MESURE	APPROXIMATE QUANTITIES QUANTITIES APPROXIMATIVES	UNIT PRICE (IN FIGS) PRIX UNITAIRE (EN CHIFFRES)	TOTAL TOTAL	
ARTICLE No.						
					$	¢
	.....Dollars and .....cents					
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Carried Forward

Brought Forward ... Page #

ITEM No. ARTICLE No.	ITEM UNIT PRICE, LUMP SUM PRICE (FIXED PRICE), AS THE CASE MAY BE, SHALL BE EITHER TYPEWRITTEN, PRINTED OR WRITTEN IN INK IN WORDS IN THE SPACE PROVIDED FOR EACH ITEM IN THIS COLUMN ARTICLE Le prix unitaire, le prix forfaitaire (prix fixé), selon le cas, dois être inscrit ci-dessous en toutes lettres, soit à la machine à écrire, soit imprime à l'encre dans l'espace réservé à chaque article.	MEASURE MESURE	APPROXIMATE QUANTITIES QUANTITIES APPROXIMATIVES	UNIT PRICE (IN FIGS) PRIX UNITAIRE (EN CHIFFRES)	TOTAL TOTAL	
	.....Dollars and .....cents				$	¢
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	.....Dollars and .....cents					
	.....Dollars and .....cents					
	.....Dollars and .....cents					

Total Bid

HST Total ..... Dollars and..... cents	$	¢

We/I,.....

do hereby offer to furnish all and every kind of labour, tools, machinery, implements, and other plant, services, and materials, whatsoever necessary to perform the undermentioned Work within the limits of the time specified; namely:

PROVINCE OF NEW BRUNSWICK
DEPARTMENT OF TRANSPORTATION
CONTRACT NO. .....

Name of Project

In accordance with the Contract Documents, specifications, plans, profiles, and drawings, prepared, or to be prepared, for the purpose of such Work and upon the terms and conditions set out in the printed form of Contract to be furnished, and in every respect to the satisfaction of the Chief Engineer, all the Work of the different kinds hereinafter mentioned in the said specifications so far as the same are applicable to the class of Work hereby tendered for and required in the construction of the Work tendered.

At and for the prices set opposite the different Items.

Accompanying this tender is one of the following:

1) A Bid Security Deposit in the form of a Certified Cheque payable to the Minister of Finance in the amount of .....

OR

2) A Bid Bond with HER MAJESTY THE QUEEN in right of the Province of New Brunswick as represented by the Minister of Transportation as obligee in the amount of .....

..... in accordance with the terms of the advertisement calling for this tender. We/I do hereby declare and agree that in the case of our/my refusal to execute a formal Contract with the Department within 14 days after the notification of acceptance of this tender, the said bid bond shall be forfeited in accordance with Section 24 of Regulation 82-109 under the Crown Construction Contracts Act to the Department as liquidated damages for the said refusal.

We/I, the undersigned have examined the Contract Documents, plans, specifications (including all revisions thereto), and the location of the above described Work and are fully informed as to the nature of the Work and the condition relating to its performance, and understand the quantities shown in the estimate are approximate only and are subject to either increase or decrease, and hereby agree to conform to all respects to the terms and conditions of this tender, and to sign a formal Contract therefore upon demand.

Dated at ..... this ..... day of .....20...

Contractor .....

Signature of Authorized Representative .....

Address .....

.....

TO: THE MINISTER OF TRANSPORTATION
DEPARTMENT OF TRANSPORTATION
PROVINCE OF NEW BRUNSWICK
FREDERICTON, NEW BRUNSWICK

G

This document is the document referred to as "Plans and Standard Specifications" and marked "G" in the Articles of Agreement entered into on the _____ day of _____ 20____, between the Owner and the Contractor.

(
(
(
(
(_____
(OWNER

signed

(
(
(
(
(_____
(CONTRACTOR

PROVINCE OF NEW BRUNSWICK

DEPARTMENT OF TRANSPORTATION

STANDARD SPECIFICATIONS

PROJECT:

This document is the document referred to as "Affidavit" and marked "I" in the Articles of Agreement entered into on the ..... day of ..... 20..... between the Owner and the Contractor.

Signed

_____
Owner

_____
Contractor

I, ... of the .....
in the County of ..... and the Province of .....
make oath and say:

1. That I am secretary-Treasurer of .....
....., a body corporate under and by virtue of the laws of the Province of ..... having its Head Office at .....
.....in the County of .....
and the Province of ..... and I have custody of the Corporate Seal of the said Company.

2. That the Corporate Seal affixed to the aforegoing Indenture is the Corporate Seal of the said ..... and was affixed thereto by me by authority of the Board of Directors thereof.

.3 That the signature "....." set and subscribed to the said Indenture as President of ..... is in true and proper handwriting of ..... who is the President of the said Company and the signature "....." set and subscribed thereto as Secretary-Treasurer of the said Company is in true and proper handwriting of me, this deponent.

SWORN to me at the City of
..... in the
County of .....
and the Province of .....
this ..... day of ..... 20..... .

.....
Secretary-Treasurer

.....
Commissioner of Oaths

40-1280

BGG EBW U

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